

REMARKS

Claims 1-3, 5-19, 21-27, and 54-59 were presented for examination and were rejected in the final Office Action mailed May 18, 2007. Applicants are hereby amending claims 1-3, 5, 8, 10, 12, 13, 17-19, 23, 25, 54-56, 58, and 59. Support for all amendments is found in the application as originally filed. Reconsideration of the application as amended, and allowance of all claims herein, claims 1-3, 5-19, 21-27, and 54-59 as amended, are hereby respectfully requested.

In the second paragraph of her final Office Action, the Examiner rejected claims 1, 2, 5-19, 21-27, and 54-59 under 35 U.S.C. 102(e) as being anticipated by Lachman U.S. patent publication no. 2002/0166063, filed February 28, 2002 (hereinafter "Lachman II"). Lachman II claims priority to Lachman U.S. provisional patent application serial no. 60/272,712, filed March 1, 2001 (hereinafter "Lachman I"). The filing date of the instant application is October 19, 2001, which falls between the filing dates of Lachman I and Lachman II. Therefore, any new matter in Lachman II cannot be used as prior art against the claims of the instant application. In her Advisory Action mailed August 22, 2007, the Examiner indicated the sections of Lachman I that she considers pertinent to the present claims.

Claim 1 as amended is patentably distinct over Lachman I, because:

1. Claim 1 recites that the content match is applied to information within the content portions of the data packets. Lachman I discloses that "packets are compared to a stored signature database" in the packet sniffing portion of his method (page 5 line 4), but is vague as to the definition of "signature". In all of the examples in Lachman I that are relevant to the

locations within the packets where the comparisons are performed, Lachman I discloses that the comparisons are performed in the header portions of the packets, as opposed to the content portions. Lachman I, page 6 line 20, page 10 lines 20-22, page 11 line 5, page 12 line 4, page 13 line 16, page 13 line 21, page 14 line 3, page 14 line 19, and page 16 lines 22-23. This is not surprising, given that the purpose of Lachman I is to thwart denial of service attacks (Lachman I, page 4 line 5). Thus, apparently, Lachman I operates exclusively at the network layer of the OSI network model, whereas the present invention is able to analyze packets at any level of the OSI model, and is able to perform this analysis for any and all protocols. Figures 2a and 2b, and accompanying description, of the present application.

2. Claim 1 recites that when information within the content portion of a data packet is substantially similar to content match information, the DED initiates issuance of a message to a user workstation and invokes the RTP to process a transaction. Lachman I, on the other hand, does not disclose user workstations nor does it disclose anything analogous to Applicants' RTP. This recitation in claim 1 implies a built-in time delay to accommodate a response from the user. In Lachman I, on the other hand, the second step, verification of a denial of service attack, is performed by the Decision Module, which analyzes the data in real time, with no time delay. Lachman I, page 5 line 10, page 6 line 2.

Claims 2, 5-17, and 54-59 depend from claim 1, and thus their patentability flows from the patentability of claim 1. Furthermore, these dependent claims include additional features that distinguish them from the prior art.

For example, with respect to amended claim 2, Lachman I does not disclose or suggest control information associated with the content match information.

With respect to amended claim 5, Lachman I does not disclose or suggest anything analogous to an RTP comprising a network server and a database, said RTP operable to process requests for content.

With respect to amended claim 54, Lachman I does not show or suggest anything analogous to a DED operable to search data packets for content match information to determine whether transmission of data packets associated with particular content should be prevented, and when the DED finds such content match information, the DED prevents further transmission of these data packets without additional processing. Lachman I does not prevent further transmission of any packets (said prevention is referred to in Lachman I as a “countermeasure”) until Lachman I determines, in a second step, whether the packet sniffing assessment of a possible threat (performed in his first step) is accurate. Lachman I, page 5 lines 20-22, page 10 lines 1-8, page 11 line 21 through page 12 line 6, and page 15 lines 13-20. Such a second step is expressly disclaimed in Applicants’ claim 54. Lachman I’s Decision Module, in his second step, requires analysis of incoming packets and router loads to assess the threat. Lachman I, page 7 lines 4-8; page 11 line 20 through page 12 line 6. Nothing in Lachman I teaches or suggests that the packets are prevented from further transmission during the threat assessment (first step) as in claim 54.

Claim 18 as amended contains substantially the same limitations that are recited in amended claim 1. Therefore, the arguments submitted above in favor of the patentability of claim 1 also pertain to the patentability of claim 18, mutatis mutandis.

Claims 19 and 21-27 are dependent claims depending upon claim 18. Therefore, their patentability flows from the patentability of claim 18. Furthermore, these dependent claims contain additional limitations not suggested by the prior art.

For the above reasons, Applicants request the Examiner to withdraw her rejection of claims 1, 2, 5-19, 21-27, and 54-59; and to allow these claims as amended.

In the fourth paragraph of her final Office Action, the Examiner rejected claim 3 under Lachman II in view of U.S. patent 5,710,757 to May.

Claim 3 is a dependent claim depending upon claim 1. As demonstrated above, amended claim 1 is patentable. The addition of May to the rejection does nothing to counter the patentability of claim 1. Therefore, it follows that claim 3 is patentable.

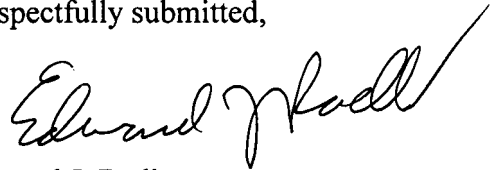
For the above reasons, Applicants request the Examiner to withdraw her rejection of claim 3, and to allow claim 3 as amended.

Applicants believe that this application is now in condition for allowance of all claims herein, claims 1-3, 5-19, 21-27, and 54-59 as amended, and therefore an early Notice of Allowance is respectfully requested. If the Examiner disagrees or believes that, for any other reason, direct contact with Applicants' attorney would help advance the prosecution of this case to finality, she is invited to telephone the undersigned at the number given below.

Respectfully submitted,

date of signature:

Oct -18. 2007



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